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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4765 of 2019

Shri Hari Rai Sinha S/o Late Shri Ram Chandra Sinha Aged About 80 Years R/o MIG 74 R.P. Nagar, Phase II, Korba, District Korba Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Department Of Higher Education And Technical Education And Janshakti Niyojan Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. The Joint Director Treasury Accountant And Pension Bilaspur Department District Bilaspur Chhattisgarh.
3. Director Technical Education Department Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
4. Principal Govt. Polytechnic College Rumgara Post Balconagar District Korba.
5. State Bank Of India Through Its Branch Manager Korba, ITI Rampur Colony Near Collectorate Korba Chhattisgarh.

---Respondents

For Petitioner	:	Shri Ashutosh Shukla, Advocate.
For Respondent No.4	:	Shri Vedant Bhelonde on behalf of Shri P. R. Patankar, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05.07.2019

1. The challenge in the present writ petition is to the order dated 22.04.2019 passed by the respondent No.5-Bank. Vide the impugned order, the respondents have issued a recovery order against the petitioner from his pension for an amount of Rs.3,38,322/-. The deduction has been ordered to be made for 18 months and it is said that the respondents Bank are recovering an amount of Rs.18,260/- per month.

2. The counsel for respondent No.5, on instructions, makes submission that the petitioner has been paid excess amount of Rs.3,38,322/- as deduction by way of commutation installment was not made in the case of the

petitioner for the period between 10.10.2008 to 28.02.2018 and this excess amount is now ordered to be recovered. According to Bank, since the petitioner was not entitled for the said amount and has inadvertently been paid to him, the respondent -Bank have initiated steps for recovering the same.

3. The counsel for the petitioner, on instructions, does not dispute the fact that the bank authorities had not made any deduction by way of commutation installment between October, 2008 to February, 2018. This means, the petitioner has got advantage of commutation of pension as well as full pension that he was otherwise entitled for during the said period resulting in the excess payment made by the Bank.

4. The said action seems to be a clerical error on the part of the Bank in not deducting commutation installment. Thus, this court is of the opinion that the petitioner under no circumstances would be entitled for double benefit i.e. receiving commutation of pension at the first instance and thereafter the Bank also paying full pension without deducting the commutation installment.

5. In view of the same, this court is of the opinion that the decision of the respondent-Bank so far as initiating recovery is concerned, cannot be said to be bad in law, nor can it be said to be in any manner illegal.

6. However, considering the fact that the petitioner is a pensioner and he has retired from service w.e.f. 28.02.2003, deduction of an amount of Rs.18,260/- from his monthly pension would be too exorbitant an amount. In the opinion of this court, since the petitioner was not at all responsible for the excess payment that he has received, the amount of installment that the Bank are deducting is liable to be reduced to a lessor amount.

7. This court accordingly quantifies the deduction to be made by the respondent-Bank at Rs.10,000/- per month till the entire amount is recovered from the monthly pension of the petitioner instead of Rs.18,260/- which is now being deducted.

8. With the aforesaid modification to the monthly installment that the respondent-Bank is deducting, the impugned order so far as action of recovery is concerned, it does not warrant any interference.

9. The writ petition accordingly stands partly allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder